

Globe Regional Justice Court

1400 E. Ash Street
Globe, AZ 85501
P: (928) 402-8537
F: (928) 425-4773

**Miami Magistrate Court**

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INFORMATION FOR COLLECTING A JUDGMENT

Your judgment entitles you to collect through various legal means. The court does not collect the judgment for you and cannot recommend a method of collection as the court does not provide legal advice.

You must decide which avenue of collections you will pursue. You will prepare and file the appropriate court forms. It is also your responsibility to obtain addresses or other information you may need as you pursue collections. The court can provide you with the forms and instructions. Any additional fees that may be incurred will be added to your judgment amount as accruing court costs.

The party awarded a judgment is known as the Judgment Creditor and the party who the judgment is against is known as the Judgment Debtor.

It is suggested that you begin by sending a demand letter to the debtor. The demand letter should explain what you intend to do if the debtor fails to pay you and whether you are willing to accept payments.

COURT COSTS

You may be required to pay additional court fees and/or costs in pursuing your judgment through collection.

COLLECTION AGENCY

You may consider referring your judgment to a collection agency. The agency will charge a percentage of what is collected. A listing of collection agencies can be found in the Yellow Pages.

JUDGMENT DEBTOR EXAMINATION (Rule 64.1b, Arizona Rules of Civil Procedure; A.R.S. §12-1631; A.R.S. §22-524)

The purpose of a Judgment Debtor's Examination is to obtain information about assets and other information relevant to the judgment debtor that may aid you in collecting the judgment.

You may file a Petition in Support of Supplemental Proceedings with the court clerk. There is a fee for issuing an Order for Supplemental Proceedings.

The court will set a date and time for the judgment debtor or other named person to appear as ordered. You must also be present at the scheduled examination unless you have obtained counsel to appear on your behalf.

The Petition and Order for Appearance will need to be served on the judgment debtor or on a person who has information or documents concerning the assets of the judgment debtor. The Order must be served by the constable or a licensed process server. There may be a fee for the service.

The Order for Appearance must be served personally on the judgment debtor; substitute service will not suffice. Be sure to instruct the person serving the order to note on the affidavit of service the judgment debtor's physical description and date of birth. Rule 64.1, Arizona Rules of Civil Procedure requires that the physical description be included on a civil arrest warrant, should it be necessary to issue one for failure to appear.

At the debtor's examination the party to whom the order was issued will be placed under oath and then you, or an attorney representing you, will conduct the examination. You may ask the judgment debtor questions concerning his assets or property. You should be prepared to know what questions you plan to ask the judgment debtor. The judgment debtor is required to bring the documents and records specified by the order and to be prepared to answer your relevant questions concerning his assets or property. If the debtor fails to appear as ordered, after having been personally served, the court will issue a civil arrest warrant if one is requested.

If the judgment debtor fails to make a good faith effort to properly participate in the proceedings or otherwise fails to comply with the court's order, you may file a Motion for Sanctions for Non-Compliance. The court can provide you with a form.

GARNISHMENT (A.R.S. §12-1570 – §12-1598.17)

Garnishment is a process that will enable you to gain access to monies owed to the judgment debtor by others.

There are two general types of garnishment proceedings:

1. Garnishment of earnings (wages the debtor is earning at a job)
2. Garnishment of non-earnings (i.e., deposits in a bank account)

To initiate the garnishment proceedings you will have to know where the judgment debtor works, banks, or who may owe the judgment debtor money. A written demand is required prior to garnishment of an individual's wages.

After filling out and filing the application, the court will issue the Writ of Garnishment. The constable or a licensed process server must serve the Writ. The party or business holding the money must file an answer to the garnishment with the court. After an answer has been filed you must then apply for an order for the judge to release any money being held to you.

There is a fee for issuing a Writ of Garnishment. Additional costs will be incurred for service of the order. If you do not know a bank account number most banks will conduct a search for you for a fee.

EXECUTION (A.R.S. §22-244, §12-1551)

A Writ of Execution allows the constable to take non-exempt personal property of the judgment debtor and hold it for sale at a public auction for the purpose of satisfying the judgment. The court can provide you with a Writ of Execution form.

There is a fee for issuing a Writ of Execution plus constable service fees and other constable fees incurred with execution of the Writ.

There are two different Writs of Execution:

1. *Special Writ*: Allows the constable to execute on personal property that is specifically named or identified by the creditor.
2. *General Writ*: Allows the constable to execute on any non-exempt personal property, at the constable's discretion, that the constable may find or locate at the address provided by the creditor.

After the Writ of Execution is signed by the judge it will be forwarded to the constable of the precinct where the property to be attached is located. The constable will go to the location noted on the Writ and if he determines there is insufficient personal property to satisfy the judgment the Writ will be returned unsatisfied. The Writ is returnable in 60 days (meaning the constable has up to 60 days to execute the Writ). You should contact the constable's office serving the Writ if you have specific questions as to how the execution will be made and to find out how much the constable service fee will be.

LIENS ON REAL PROPERTY (A.R.S. §12-1553, §12-1556, §22-246, §33-961)

To record the judgment as a lien on real property you must file a transcript of the Justice Court judgment with the Superior Court and then record it with the County Recorder. It can affect the judgment debtor's real property currently owned or later acquired (except any real property exempt from execution). The judgment lien is active for five years from the date of judgment.

If you choose to follow this procedure you must obtain a certified copy of the judgment from the Justice Court. There is a fee for obtaining a certified copy.

Take the certified copy to the Clerk of the Superior Court and pay the filing fee. A Superior Court Transcript of Judgment case number will be assigned. When the transcript is filed with the Clerk of the Superior Court the judgment will be deemed the judgment of the Superior Court and will be carried into execution in the same manner and with like effect as a judgment of the Superior Court.

You must take the Superior Court Transcript of Judgment to the County Recorder's Office in any county where you think the judgment debtor owns real property. You will have to pay a recording fee.

When the recording is completed the judgment lien is in effect.

FOREIGN JUDGMENTS

If the property or assets of the judgment debtor are located in another state it will be necessary for you to lodge your judgment as a foreign judgment with that state to pursue collection proceedings in that state.

You must obtain a certified copy of the judgment from the Justice Court. There is a fee for obtaining a certified copy.

Take the certified copy to the Clerk of the Superior Court and pay the filing fee. A Superior Court Transcript of Judgment case number will be assigned.

LIEN ON DRIVER LICENSES

If the judgment is the result of damages from a motor vehicle accident a lien can be put against a judgment debtor's driver license if the judgment remains unpaid sixty (60) days after the judgment is entered. The lien will result in a suspension of the person's driver license.

You will have to request that the Justice Court fill out a form certifying that the judgment is not satisfied and request a certified copy of the judgment. The court will send the certification and the certified copy of the judgment to the Motor Vehicle Department.

There is no fee for the certified copy of the judgment or for the court's certification.

RENEWAL OF JUDGMENT (A.R.S. §12-1611)

Your judgment is good for five years. As the financial status of the judgment debtor changes or you find out new information that will aid you in your collection attempts, you may actively pursue collection of your judgment for five (5) years. If you have been unsuccessful in satisfying your judgment and the judgment is nearing five (5) years in age, you may renew the judgment and continue collection proceedings for five more years. At anytime within ninety (90) days prior to the expiration of the judgment you may file an Affidavit of Renewal with the court.

You will be required to calculate the new judgment amount. The clerk will provide you with a worksheet and affidavit for calculating the present judgment amount.

A renewed judgment can then be recorded with the County Recorder's Office or reported to the Motor Vehicle Department in the same manner as the original judgment.

SATISFACTION OF JUDGMENT

After you collect the judgment you must file a Satisfaction of Judgment form with the Justice Court. The court can provide you with a form or you may obtain a form from the Pinal County Justice Court website.

If a Transcript of Judgment has been filed with the Superior Court the Satisfaction of Judgment must be filed with the Clerk of the Superior Court.

If you have recorded your judgment in the County Recorder's Office you must also file a copy of the Satisfaction of Judgment in that office.

If you have filed a clerk's certification of non-satisfied judgment with the Motor Vehicle Department you must also file a copy of the Satisfaction of Judgment with that office.

RESOURCES:

Globe Regional Justice Court website:

<http://gilacountyaz.gov/government/courts/index.php>

Arizona Revised Statutes website:

<http://www.azleg.gov/ArizonaRevisedStatutes.asp>

Arizona Rules of Court website:

<http://government.westlaw.com/linkedslice/default.asp?SP=AZR-1000>